

# State of South Dakota

## EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

456M0183

### HOUSE BILL NO. 1138

Introduced by: Representatives Faehn, Brunner, Cutler, Davis, Elliott, Frost, Halverson, Haverly, Hills, Howie, Hunhoff, Krebs, McCoy, McLaughlin, O'Brien, Rave, Schafer, Sebert, Sigdestad, Street, Thompson, Van Etten, Vehle, Weems, Wick, and Willadsen and Senators Sutton (Duane), Gray, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to authorize first class municipalities to issue nonsmoking  
2 establishment on-sale licenses under certain conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Notwithstanding the provisions of § 35-4-11, each first class municipality may  
5 issue two nonsmoking establishment on-sale licenses. Any establishment licensed pursuant to  
6 this section shall be operational within eighteen months following issuance of the nonsmoking  
7 establishment on-sale license. If the applicant for the nonsmoking establishment on-sale license  
8 possesses one or more on-sale licenses in the first class municipality, the applicant shall either  
9 transfer one on-sale license to an unrelated party or forfeit one on-sale license when the  
10 application for the nonsmoking establishment on-sale license is granted by the municipality.

11 Section 2. That § 35-4-2 be amended by adding thereto a NEW SUBDIVISION to read as  
12 follows:

13 Non smoking establishment on-sale--not less than one dollar for each person residing within  
14 the municipality as measured by the last preceding federal census, the renewal fee for such



1 license, in municipalities of the first class, is fifteen hundred dollars.

2 Section 3. That § 35-4-4 be amended to read as follows:

3 35-4-4. No person, corporation, or business entity may be the holder of or have an interest  
4 in more than three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13) or section  
5 2 of this Act. However, a person, corporation, or business entity may hold or have an interest  
6 in three additional retail licenses issued under subdivision 35-4-2(4) if the licensee derives more  
7 than fifty percent of the licensee's gross receipts from the sale of food at the location where the  
8 license is held. For purposes of this section, location means one contiguous piece of real estate  
9 on which sales are generated by the licensee.